

## **Rye City Planning Commission Minutes**

December 9, 2003

1 **PRESENT:**

2 Barbara Cummings, Chair  
3 Martha Monserrate, Vice-Chair  
4 Hugh Greechan  
5 Peter Larr  
6

7 **ABSENT:**

8 Franklin Chu  
9 Patrick McGunagle  
10

11 **ALSO PRESENT:**

12 Christian K. Miller, AICP, City Planner  
13

14 **I. HEARINGS**

15  
16 **1. Rye Subaru**  
17

18 Chair Cummings read the public notice. The City Planner acknowledged receipt of an  
19 affidavit from the applicant indicating its compliance with the City's public notification  
20 requirements.  
21

22 Anthony Gioffre (applicant's attorney) provided an overview of the application noting  
23 that it involved the demolition of a vacant gasoline service station and the construction  
24 of a new one-story, 5,000 square-foot vehicle dealership. Mr. Gioffre noted that the  
25 property is located at 1175 Boston Post Road and is located in the B-1 District. Mr.  
26 Gioffre stated that the applicant intends to relocate its existing Subaru dealership  
27 located on McCullough Place to the project site. The proposed dealership will be a  
28 stand-alone facility and will not be related to the adjacent Ford dealership. Mr. Gioffre  
29 noted that the proposed plan will enhance the character of this intersection, which some  
30 have identified as a gateway parcel to the City's Central Business District. Mr. Gioffre  
31 noted that an attractive retail building will be provided on the property and that a 10-foot  
32 planted buffer will be provided along Boston Post Road to mitigate potential visual  
33 impacts.  
34

35 Rex Gedney (applicant's architect) discussed the project site and proposed site plan  
36 noting that the property is approximately 18,000 square feet in size. Under current B-1  
37 Zoning District requirements a 9,000 square-foot building is permitted but the applicant  
38 is proposing only 5,000 square feet of development. Mr. Gedney noted that the  
39 proposed building would be located in the northeast corner of the property allowing for  
40 the site access drive to be as far from the Peck Avenue intersection as possible. Mr.  
41 Gedney stated that this change in access location would be a traffic improvement.  
42

43 Mr. Gedney discussed the location of the proposed parking as well as the parking for  
44 vehicle storage and services located in the rear of the property. Mr. Gedney noted that  
45 the proposed site plan and parking met requirements of the City Zoning Code including

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1 the provisions for a 10-foot planted area along Boston Post Road. With respect to  
2 lighting, Mr. Gedney noted that the existing lights on the property would be removed  
3 and that new lower fixtures with better cutoff would be provided.  
4

5 Chair Cummings opened the floor to public comments. A resident of 732 Forest Avenue  
6 asked where the site was located. Rex Gedney responded that the property is located  
7 at 1175 Boston Post Road next to the existing Ford dealership and generally opposite  
8 Peck Avenue. There were no further public comments.  
9

10 The Commission discussed the applicant's intentions for the off-loading of sales  
11 vehicles. The Commission noted that there did not appear to be a sufficient area on the  
12 property to accommodate the loading of vehicles and stressed that it did not want to see  
13 any impact of loading on traffic flow on Boston Post Road. Mr. Gioffre responded that  
14 the applicant has consulted with the Rye City Police Department and Metro-North about  
15 the loading of vehicles in the Metro-North parking lot located behind the applicant's  
16 property. Mr. Gioffre stated that the applicant would be seeking to load in that location  
17 and would do so between the hours of 8:00 p.m. and 6:00 a.m. to avoid traffic conflicts.  
18 Mr. Gioffre also stated that the applicant could off load its vehicles at satellite parcels it  
19 owns in the nearby communities of Port Chester and Stamford.  
20

21 The Commission questioned the existing encroachments onto the adjacent City of Rye  
22 property and whether the applicant intended to use that area. The Commission noted  
23 that the continued use of that area would require a license agreement with the City of  
24 Rye. Mr. Gedney responded that the applicant is proposing a guiderail along the  
25 property line and will discontinue use of this area.  
26

27 On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the  
28 following vote:  
29

30 AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Martha Monserrate

31 NAYS: None

32 RECUSED: None

33 ABSENT: Franklin Chu, Patrick McGunagle,  
34

35 the Planning Commission took the following action:  
36

37 ACTION: The Planning Commission closed the public hearing on site plan  
38 application number SP276.  
39

### **2. Gingrich Residence**

41  
42 Chair Cummings read the public notice. The City Planner acknowledged the receipt of  
43 an affidavit from the applicant indicating compliance with the City's public notification  
44 requirements.  
45

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1 Richard Horsman (applicant's landscape architect) noted that the application involved  
2 the construction of an addition to the rear of an existing residence and the construction  
3 of a new breezeway and two-car garage. Mr. Horsman noted that some existing  
4 pavement on the property will be removed but that there will be a net increase in  
5 impervious area on the property. Mitigation has been provided in the form of landscape  
6 plantings at a ratio of 2:1 to the amount of increased impervious area.

7  
8 Mr. Horsman indicated that due to cost considerations the applicant is contemplating  
9 modifications in the design of the proposed addition. Mr. Horsman noted that some of  
10 these modifications may result in a reduction in the size and scope of the project. Mr.  
11 Horsman indicated that he learned of these possible changes in the plan after the public  
12 notices had already been mailed and therefore requested that the public hearing be  
13 kept open. Mr. Horsman indicated that the new information and plans should be  
14 available in a few weeks.

15  
16  
17 On a motion made by Barbara Cummings, seconded by Martha Monserrate and carried  
18 by the following vote:

19  
20 AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Martha Monserrate

21 NAYS: None

22 RECUSED: None

23 ABSENT: Franklin Chu, Patrick McGunagle,

24  
25 the Planning Commission took the following action:

26  
27 ACTION: The Planning Commission kept open the public hearing on wetland permit  
28 application number WP144.

## **II. ITEMS PENDING ACTION**

### **1. Discussion of 2004 Planning Program**

34  
35 Per the Planning Commission's request the City Planner provided an overview of his  
36 memorandum suggesting what he considered to be the most important pro-active  
37 planning activities that the City should consider undertaking. The top priority for the City  
38 Planner was the completion of the update of the 1985 development plan. The City  
39 Planner noted that this project has been ongoing for a number of years and that this  
40 important planning effort should be completed. The City Planner also suggested other  
41 planning projects including enhancements to the capital planning process in the City of  
42 Rye, reexamining the regulation of the City's neighborhood business districts, improving  
43 planning for wetland and other environmental resources in the City and addressing  
44 affordable housing needs in the community. The City Planner stressed that these  
45 suggested planning activities are considered to be the most important in his opinion, but

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1 that the City should only pursue what it feels it could complete. If there is limited  
2 consensus to undertake these or other planning projects then its successful  
3 implementation will likely be jeopardized. The City Planner suggested that the Planning  
4 Commission could be the catalyst to initiate that dialogue regarding the importance of  
5 planning and what projects it deems appropriate but that it would need to build  
6 consensus in the community for any project. Most importantly, the Commission will  
7 need the consent of the Rye City Council, which would likely be involved in the final  
8 approval of any planning related activity.  
9

10 The Planning Commission discussed each of the projects proposed by the City Planner  
11 and suggested that it have a dialogue with representatives in the community to explore  
12 which of the projects would be the most meaningful to pursue. The commission agreed  
13 that it would continue this discussion at its next meeting in January.  
14

### **2. Discussion of 2004 Meeting Schedule and Site Walk Dates**

16

17 The Planning Commission discussed and approved its meeting schedule and site walk  
18 dates for 2004. The Commission discussed whether it should conduct a second meeting  
19 in January. The Commission agreed that it would determine at its January 13<sup>th</sup> meeting  
20 whether it would conduct a second meeting in January on the 27<sup>th</sup>.  
21

### **3. Rye Subaru**

23

24 The Planning Commission discussed concerns regarding the loading and unloading of  
25 sales vehicles on the property. The Commission noted that it did not want loading or  
26 unloading operations to have adverse impacts on traffic flow on area roadways,  
27 particularly Boston Post Road. The Commission questioned the number of  
28 trailers/vehicles that typically visit the existing Subaru dealership in the area. Jim  
29 Kingery (property owner) stated that 60 cars a month would be considered high. He  
30 noted that each trailer carries approximately 10 vehicles. Mr. Kingery stated that many  
31 deliveries already occur in the Metro-North parking lot to minimize traffic impact. He  
32 stated that his operation was similar to other dealerships within the City such as  
33 Biltmore Motors.  
34

35 The Commission discussed possible conditions of approval that appropriately restricts  
36 the loading and unloading of vehicles. The Commission agreed that off-site loading  
37 should not be permitted on Boston Post Road and that loading in the Metro-North  
38 parking lot would be acceptable subject to certain time restrictions. The Commission  
39 requested that the City Planner draft appropriate conditions for its consideration in  
40 advance of its next meeting.  
41

42 The Planning Commission discussed the encroachment of the parking area onto the  
43 adjacent City of Rye property. The Commission agreed that the applicant should  
44 discontinue the use of this property or seek a license agreement from the Rye City  
45 Council.

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1  
2 The Planning Commission discussed the proposed site access and whether turning  
3 restrictions would be necessary to minimized traffic impact. The Commission discussed  
4 possibly limiting left-turns out of the site on Boston Post Road. The City Planner stated  
5 that such a restriction would make it very difficult for customers to travel southbound on  
6 Boston Post Road without taking a very circuitous route through the City's Central  
7 Business District, which is already congested. City Planner added that no such  
8 restriction exists today and that the proposed site plan would relocate the driveway  
9 access as far from the Peck Avenue intersection as possible.

10  
11 The Planning Commission discussed the proposed parking. Mr. Gedney responded  
12 that 50 parking spaces would be provided including 16 for customers, 10 for employees  
13 and 24 for service and sale vehicles. The Commission noted that the proposed parking  
14 plan appeared acceptable.

15  
16 Mr. Gedney provided an overview of the proposed lighting plan. Mr. Gedney stated that  
17 the plan was not ready for the Commission's review but he intended to provide a lighting  
18 intensity level similar to that of other properties in the City. Mr. Gedney stated that  
19 lighting would be better shielded and distributed then the current lighting on the  
20 property.

### **4. Gingrich Residence**

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22  
23  
24 There was no discussion on this matter since the applicant was revising its plans.

### **5. Coveleigh Club**

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26  
27  
28 Commission member Hugh Greechan recused himself from the discussion of this  
29 matter. This matter was not discussed since the Commission lacked a quorum.

### **6. Rye Nature Center**

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31  
32  
33 Rex James (applicant's representative) provided an overview of the project noting that it  
34 involved the construction of a new sunroom addition to the existing Rye Nature Center.  
35 Mr. James noted that the existing small sunspace would be removed and that a new  
36 pre-engineered structure would be provided in its place. The new sunroom would be  
37 energy efficient and would be about 400 square feet.

38  
39 The Commission discussed the proposed mitigation for addition's encroachment into  
40 the 100-foot wetland buffer. The City Planner and Naturalist suggested that the removal  
41 or relocation of the existing butterfly house could be a possible mitigation measure that  
42 would involve little cost to the Nature Center. Representatives from the Friends of Rye  
43 Nature Center suggested that other mitigation measures may be more appropriate. The  
44 Commission requested that the proposed mitigation be shown on the site plan before it  
45 sets a public hearing. The Commission stated that it is important that the City of Rye be

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1 subject to the same rules, regulations and practices that other applicants are subject to  
2 in seeking similar permits. The Commission noted that it typically prefers that wetland  
3 plantings be provided at a ratio of 2:1 for the increase in impervious area on the  
4 property. Bob Clyatt (Friends of Rye Nature Center member) stated that the plans would  
5 be revised to address the Commission's concerns. Mr. James stated that the location of  
6 the sunroom was sensitively placed. He noted that the proposed addition would be  
7 located in an area that consists of grass and existing rock ledge.

### **7. United Towing and Recovery, Inc.**

11 Frank Allegretti (applicant's attorney) stated that the application involves the  
12 construction of a new vehicle repair/towing facility on a property located at 22 Nursery  
13 Lane. Per the Commission's request, Mr. Allegretti researched the back taxes owed on  
14 the property. Mr. Allegretti stated that the initial title report appeared to be in error and  
15 that the amount of back taxes owed was approximately \$164,000. Mr. Allegretti also  
16 stated that he provided information to the City's Corporation Counsel for his review  
17 regarding the proposed encroachment into the existing Nursery Lane right-of-way.

19 The Commission noted that it had not yet received any opinion from Corporation  
20 Counsel and that it was reluctant to set a hearing without this important issue being  
21 addressed. Mr. Allegretti stated that the applicant is eager to process the application  
22 noting that the time period for the contract of sale for the property is expiring. Mr.  
23 Allegretti stated that the right-of-way was established by the City Council in 1959 but  
24 that it is privately owned. Mr. Allegretti stated that since that time there has been no  
25 effort by the City to acquire that property and that it's likely that an abandonment of the  
26 road right-of-way has occurred. The City respected the time sensitivity of the applicant  
27 but stated that it was important to fully understand this complex legal issue before the  
28 setting of a public hearing.

30 The Commission discussed the proposed storm water design whether it was  
31 appropriate given the proposed automotive use on the property. Aaron Wilhelm  
32 (applicant) responded that there would be routine maintenance of vehicles at the  
33 property and that there would be no need for a more sophisticated water quality  
34 drainage system. Mr. Wilhelm stated that there would be no auto painting or gasoline  
35 service at the facility. The drainage system was designed similar to that which would be  
36 necessary for a parking lot. All greases, oils, and other fluids would be disposed of as  
37 required by law. The City Engineer stated that he would review the applicant's drainage  
38 plan.

40 The Commission stated its awareness of the criteria cited in the Zoning Code for the  
41 approval of the proposed use. The Commission stated that it would review these  
42 standards and criteria carefully.

### **8. Hunter Residence**

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1 Armand Di Biase (applicant's architect) noted the location of the property at the corner  
2 of Brevoort Lane and Shore Road. Mr. Di Biase stated that the existing residence has  
3 structures on the property within 20-feet of the adjacent Van Amringe Pond. Mr. Di  
4 Biase stated that a 100-foot buffer from Long Island Sound is also located on the  
5 property.

6  
7 Mr. Di Biase discussed the rationale for the proposed house modifications noting that the  
8 original construction of the residence dates back to the 1920s. Mr. Di Biase stated that  
9 additions over the years resulted in an inefficient interior floor plan. Mr. Di Biase stated  
10 that the proposal would improve this layout by expanding the kitchen, terrace areas, and  
11 second floor bedroom. Mr. Di Biase stated that the application also proposes an  
12 additional on-site parking space off the existing driveway to provide vehicles with  
13 unobstructed access to the existing garage. Mr. Di Biase concluded his presentation by  
14 noting that the proposed addition and modification would result in approximately 843-  
15 square-foot increase in impervious area.

16  
17 Zachary Comstock (applicant's landscape architect) provided an overview of the  
18 proposed mitigation plan noting that approximately 1,700 square feet of mitigation  
19 plantings were proposed. The plantings would provide an environmental benefit by  
20 decreasing the amount of lawn area on the property and providing wetland buffer  
21 appropriate plants adjacent to Van Amringe Pond.

22  
23 The Commission discussed the proposed application and questioned the need for the  
24 extent of impervious area. The Commission also questioned the location of the existing  
25 septic system on the property and its condition. The Commission requested that the  
26 applicant consider, prior to the public hearing, extending the sewer line if practical.

27  
28 On a motion made by Peter Larr, seconded by Hugh Greechan and carried by the  
29 following vote:

30  
31 AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Martha Monserrate

32 NAYS: None

33 RECUSED: None

34 ABSENT: Franklin Chu, Patrick McGunagle,

35  
36 the Planning Commission took the following action:

37  
38 ACTION: The Planning Commission set a public hearing on wetland permit  
39 application number WP145 for its next meeting on January 13, 2004.

### **9. Fuller Residence**

40  
41  
42  
43 Rex Gedney (applicant's architect) provided an overview of the application noting that it  
44 involved an addition and modification to an existing one-story ranch located at 6 Island  
45 Drive. Mr. Gedney stated that the applicant proposes to add a partial second floor and

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one-story addition in the rear of the existing structure. The existing terrace would be reduced in size but a new blue stone terrace would be added in the rear of the residence as well as around the proposed swimming pool. Mr. Gedney stated that the applicant is proposing to use a special porous paving material that permits some storm water infiltration.

Beth Evans (applicant's landscape architect) provided an overview of the proposed wetland mitigation plan. Ms. Evans noted the location of the existing 100-foot buffers on the property. Ms. Evans noted that the existing wetlands include Long Island Sound and a marsh area located opposite the property on Island Drive. Ms. Evans noted the location of an existing seawall along Long Island Sound. Ms. Evans provided an overview of the proposed wetland mitigation plantings noting that there would be 2-square-feet of wetland plantings for every one-square-foot increase in impervious area on the property. Ms. Evans noted that there was approximately 1,832-square-foot increase in impervious area on the site.

The Planning Commission requested that the applicant break down types of impervious surfaces existing and proposed. The Planning Commission noted that it would consider possible reductions in its impervious surface calculations for unique paving materials that increase infiltration.

The Planning Commission discussed the extent of improvement within a designated FEMA flood zone. The Commission noted that in the 1992 Nor'easter this property was underwater. The Planning Commission suggested that the applicant consider modifications in the plan to elevate the proposed structure above the 100-year flood stage.

On a motion made by Martha Monserrate, seconded by Peter Larr and carried by the following vote:

AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Franklin Chu, Patrick McGunagle,

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on wetland permit application number WP146 for its next meeting on January 13, 2004.

### 10. 22 Locust Avenue

Rex Gedney (applicant's architect) stated that the current property owner, Kevin Butler, was seeking the Planning Commission's informal input on changing the existing use of a



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1 property located at 22 Locust Avenue from professional office to retail. Mr. Gedney  
2 stated that retail is permitted in the B-1 District. Mr. Gedney noted however that the  
3 existing structure, which is less than 2,000 square feet, is located in a designated flood  
4 zone, within a 100-foot wetland buffer and requires approximately 20 parking spaces for  
5 a retail use. Mr. Gedney stated that given the small size of the property that only 3 or 4  
6 spaces could be provided on the site.

7  
8 Mr. Gedney explained that the property was recently owned by Dr. Nitschke. Dr.  
9 Nitschke operated a dentist office and had an apartment above. The former use  
10 provided only two on-site parking spaces. Mr. Gedney noted that the existing property is  
11 on the west side of Blind Brook in the "C" parking district but the property is less than  
12 200-feet from an existing municipal parking lot.

13  
14 Mr. Gedney provided an overview of the B-1 District along Locust Avenue. Mr. Gedney  
15 stated that there are approximately six properties with multi-family residences, four that  
16 consist of single-family dwellings, (two of which are owner occupied), and that the  
17 remaining seven properties in the vicinity of the applicant's property consist of  
18 professional/retail/commercial uses.

19  
20 Mr. Gedney stated that the property owner was seeking to convert the existing  
21 professional office space to an art gallery. Mr. Gedney stated that the gallery would be a  
22 relatively low intensity retail use and that it would complement the existing uses in the  
23 area.

24  
25 The Planning Commission was generally receptive to the proposed conversion to an art  
26 gallery but noted concern with the extent of variance that would be required from the  
27 City's parking requirements. The City Planner stated that the Planning Commission  
28 could reduce the parking requirement from 20 spaces to 10 spaces, which it has done in  
29 the past. Even with the reduction, which the Planning Commission could grant, the  
30 Commission noted concern with the extent of variation from the City's parking  
31 requirements. To address this concern the Planning Commission suggested that the  
32 applicant provide in its formal submission placing restrictions and conditions on the use  
33 of the property to address parking and community character concerns. These conditions  
34 and restrictions should be such to minimize the potential adverse impact of the  
35 proposed use or conversion to another permitted retail use. The Commission also  
36 requested that consistent with City policy that the applicant present its formal application  
37 to the Planning Commission before seeking any variance from the City's Zoning Board  
38 of Appeals.

### 39 40 **11. Minutes**

41  
42 The Commission reviewed and approved the minutes of its October 28, 2003 meeting.